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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,065	07/15/2003	Beth A. Besner	3756	7999
22474	7590	05/27/2005	EXAMINER	
DOUGHERTY, CLEMENTS & HOFER 1901 ROXBOROUGH ROAD SUITE300 CHARLOTTE, NC 28211			AHMAD, NASSER	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,065

Applicant(s)

BESNER ET AL.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Rejections withdrawn

1. Claims 11-14 rejected under 35 U.S.C. 112, second paragraph, in view of the amendment filed on February 25, 2005.
2. Claims 1-2, 5-17, 19, 21-23 and 25-27 rejected under 35 USC 102(b) as being anticipated by Albrecht in view of the amendment.
3. Claims 1-19, 21-23 and 25-28 rejected under 35 USC 103(a) as being unpatentable over Albrecht in view of MacLean in view of the amendment.
4. Claims 20 and 39 rejected under 35 USC 103(a) as being unpatentable over Albrecht in view of Tanaka in view of the amendment.
5. Claim 24 is rejected under 35 USC 103(a) as being unpatentable over Albrecht in view of Knisely in view of the amendment.

Response to Arguments

6. Applicant's arguments with respect to claims 1-4 and 6-39 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 7-9, 11, 15-17, 19, 21-23, 25-27, 34-36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Albrecht (4875242).

Albrecht relates to a disposable sanitary seat cover (10) comprising an annulus (12) having a polygonal perimeter and an ovalled inner edge (18) as shown in figure-2. The annulus is of a multi-ply embossed laminated paper sheet having a top layer (24) of tissue paper and a bottom layer (26) of a machine glazed paper, and an adhesive fastening means (57) for temporarily securing the cover to the toilet, wherein the adhesive means is attached to the bottom layer. The annulus has a polygonal perimeter, such as a rectangle (figure-2). Figure-2 shows, by the cross-hatch lines, that the embossing pattern is rectangularly checkered. The adhesive fastening means (57) comprises a pressure sensitive adhesive (PSA) covered with a release liner (62). The adhesive Tape (58) is a double-sided adhesive tape with a carrier sandwiched between the two adhesive layers because the the two adhesive sides have different adhesive strength (col. 5, lines 6-12). Further, figure-2 also shows that the adhesive fastening means are two or more islets or strips (58 and 60). The absorbent layer is embossed which is understood to include printing and can comprise a two-ply layer (col. 3, lines

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62-64 and figure-6). For claim 22, the length is approximately that of the toilet seat and the width is slightly wider (abstract). Figures 3-5 displays that the cover sheet is folded to fit into a bag and a finger lift to facilitate removal of a single cover from the bag. The embossing is understood and interpreted by the examiner to include quilting.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-4, 7-9, 11, 15-19, 21-23, 25-29 and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of MacLean (4887321).

Albrecht, as discussed above, fails to teach that the impervious bottom layer is polyethylene. MacLean discloses a toilet seat cover (10) comprising a paper sheet (11) coated with synthetic plastic material such as polyethylene (col. 7, lines 1-3). Therefore, it would have been obvious to one having ordinary skill in the art to utilize MacLean's teaching of using a bottom layer of polyethylene in the invention of Albrecht with the motivation to provide a protection barrier.

For claims 18 and 37, the presence of odorous or fragranced seat cover is well known and conventional in the art as evidenced by Canadian patent 315,162 cited in MacLean, col. 3, line 49 and that fragrance or odorous are deemed to be synonymous in the art as both are directed to suppressing unpleasant smell.

12. Claims 6, 10, 12-14 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie (5144698) in view of Albrecht.

McKenzie relates to a toilet seat cover (10) comprising an annulus having a polygonal perimeter and an ovalled inner edge as shown in figure-6. The cover comprises a multilayer sheet having a water impervious layer (14), an absorbent layer (12) and a wipe (22) that is fully detachable along the perforation line from the inner edge of the cover to provide an opening to the toilet. Further, as shown in figure-5, the wipe has an apex that can be readily lifted to initiate and propagate the detachment. The wipe is also of multilayer. However, McKenzie fails to teach that the presence of adhesive fastening means attached to the impervious layer. Albrecht, as discussed above, teaches the advantage of providing the adhesive fastening means attached to the impervious layer of the cover for securing the cover to the seat. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Albrecht's teaching of using adhesive fastening means in the invention of McKenzie with the motivation to secure the cover to the toilet seat.

13. Claims 20 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of MacLean and Tanaka (6663949).

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Albrecht and MacLean, as discussed above, fails to teach that the absorbent layer contains water swellable polymeric particles. Tanaka discloses an absorbent sheet comprising water swellable polymeric particle embedded therein (abstract and col. 3, lines 5 and 14). The also contains deodorizer. The sheet can be used as toilet sheet. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Tanaka's teaching of using water swellable polymeric particles in the absorbent layer of the toilet seat liner in the invention of Albrecht with the motivation to provide for dry seat for hygienic purpose.

14. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of Knisely (1835787).

Albrecht, as discussed above, fails to teach that the absorbent layer contains an antiseptic. Knisely discloses a sanitary closet seat cover(3) made of crepe tissue paper which is absorbent and is treated with antiseptic (page-1, lines 72-79). Therefore, it would have been obvious to one having ordinary skill in the art to utilize Knisely's teaching of using tissue absorbent paper with antiseptic treatment in the invention of Albrecht with the motivation to provide protection from germs.

Response to Arguments

15. Applicant's arguments filed February 25, 2005 have been fully considered but they are not persuasive.

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Applicant's argument about Albrecht's protective flap is not found to be convincing because the claims, as now amended does not require the flap as presented in original claim 1. As for the argument that the presently claimed "annulus has no flap", said feature could not be located in the claims and cannot be read thereinto for the purpose of avoiding the prior art.

Applicant argues that Tanaka's polymer swells and gets tacky, which is different from applicant's invention. This is not deemed to be persuasive because Tanaka reads on the recited claimed invention in that it teaches the presence of water-swellaable polymer particle distributed in the matrix.

Regarding the argument that "fragrance" is different from "deodorizer", applicant should note that both said phrases are synonymous and are directed to suppressing unpleasant smell. Hence, it would be obvious to one having ordinary skill in the art to utilize one for the other.

Applicant argues that Knisely fails to teach the elimination of contact with moisture. This is not deemed to be convincing because Knisely was cited to show that it is known and obvious in the art to provide antiseptic with tissue absorbent paper.

Additionally, in response to applicant's piecemeal analysis of the references, it has been held that one cannot show non-obviousness by attacking the references individually where, as here, the rejections are based on combination of references. *In re Keller*, 208 USPQ 871 (CCPA 1981).

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
May 24, 2005.